BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In Re:	Bernice & Alvin Banes)
	Ward 68, Block 8, Parcel 15	ý
	Residential Property) Shelby County
	Tax year 2005	j

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("county board") has valued the subject property for tax purposes as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$26,900	\$88,100	\$115,000	\$28,750

On February 27, 2006, the property owners filed an appeal with the State Board of Equalization ("State Board").

The undersigned administrative judge conducted a hearing of this matter on May 31, 2006 in Memphis. In attendance at the hearing were Alvin Banes, co-owner of the property in question, and Shelby County Property Assessor's representative Teri Brandon.

Findings of Fact and Conclusions of Law

The property in question consists of a one-story house located at 482 North White Station in Memphis. Built in the mid-Fifties on a quarter-acre site, this brick veneer dwelling contains 1,418 square feet of living area and a carport. The home, which was described by Mr. Banes on the appeal form as "run-down," does not have a central air-conditioning system.

Presently, the subject property generates gross annual rental income of \$8,940. The homes in this neighborhood are predominantly owner-occupied; however, Mr. Banes derived his proposed value of \$72,000 by a gross income multiplier (8).

The Assessor's representative, on the other hand, relied solely on a comparative sales analysis in defense of the disputed value. The (unadjusted) sale prices for her five selected comparables – all located on other streets in the vicinity – ranged from \$92,000 to \$136,000.1 In addition to those transactions, Ms. Brandon highlighted the sale of a house of nearly identical size (421 North White Station) for \$144,000 in August, 2003.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

¹Like the subject property, the Assessor's comparables were rated as "fair" in condition. All of those comparables, it should be noted, included central HVAC systems.

Since the taxpayers seek to change the present valuation of the subject property, they have the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

As explained in an authoritative textbook:

The income capitalization approach is one of the three traditional approaches to value. In the valuation of residential property, however, it is only applicable to properties for which an active rental market exists. To apply the approach, an appraiser estimates the gross monthly income a property is expected to generate and capitalizes this income into a value indication using a gross rent multiplier. [Emphasis added.]

Appraisal Institute, Appraising Residential Properties (2nd ed. 1994), p. 439.

In this case, the evidence of record does not clearly demonstrate the existence of an "active rental market" for the residential property under appeal. Certainly the appellants introduced no market data that would establish the *economic rent* for this property – i.e., "the rent justified on the basis of an analysis of comparable rental properties." International Association of Assessing Officers, <u>Property Assessment Valuation</u> (2nd ed. 1996), p. 209. Nor was the gross income multiplier by which Mr. Banes derived his estimate of value adequately substantiated. Whatever may be the shortcomings in the Assessor's sales comparison approach, the administrative judge cannot recommend any adjustment of the county board's value in view of these fundamental defects in the proof.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$26,900	\$88,100	\$115,000	\$28,750

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

- 1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or
- A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is

requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of July, 2006.

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ADMINISTRATIVE JUDGE

TENNESSEE DEPARTMENT OF STATE ADMINISTRATIVE PROCEDURES DIVISION

cc: Alvin Banes

Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office

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